

Meeting No. 21  
December 29, 2003  
Year-End Meeting  
S-6100 South Park Avenue  
Hamburg, New York 14075

Roll Call:	Patrick H. Hoak D. Mark Cavalcoli Joan A. Kesner Thomas Quatroche, Jr.	Supervisor Councilman Councilwoman Councilman
Absent:	Kathleen C. Hochul	Councilwoman
Also Present:	Catherine Rybczynski James Spute Richard Boehm Gerard Kapsiak Christopher Hull James Connolly Tim Ellis	Town Clerk Finance Director Deputy Town Attorney Town Engineer Director of Community Development Highway Superintendent Traffic Safety Consultant

## I.

**RESOLVED**, that the Town Board approve the Transfer of Appropriations within the 2003 Budget as follows:

From:	Tax- Pers. Serv.	A1330.100	\$7,542
	Hwy. Admin. - Pers. Serv.	A5010.460	\$ 90
	Skate Park - Pers. Serv.	A7270.100	\$1,581
	Zoning - Misc.	B8010.451	\$ 810
To:	Court - Stenographers	A1110.453	\$7,542
	Hwy. Garage - telephone	A5132.421	\$ 90
	Library maint. - Serv. Cont.	A7410.423	\$1,501
	Library Maint. - Rep. & Maint.	A7410.460	\$ 80
	Planning - Cons. Fees	B8020.456	\$ 810

To balance accounts at year end.

Moved: Hoak                               Seconded: Cavalcoli  
Roll Call:     Ayes: Hoak, Cavalcoli, Kesner, Quatroche  
Noes: None  
Carried

## II.

**RESOLVED**, that the Town Board approve the Transfer of Appropriations within the 2003 Budget as follows:

From:	Animal Control - Legal & Prof.	A3510.462	\$1,195
	“ ” - Uniform Maint.	A3510.465	\$ 756
	Traffic Safety - DDC Supplies	A3620.481	\$1,017
To:	Animal Control - Pers. Serv.	A3510.100	\$2,968

To balance accounts at year end.

[illegible]

### **III.**

**RESOLVED**, that the Town Board authorize the Supervisor to sign the agreement between the Town of Hamburg and the International Association of Fire Fighters, Local 2478 which covers the period from January 1, 2002 through December 6, 2006.

Moved: Hoak

Seconded: Kesner

Roll Call: Ayes: Hoak, Cavalcoli, Kesner, Quatroche

Noes: None

Carried

### **IV.**

**WHEREAS**, due to mandates and directives of the New York State Department of Environmental Conservation, the Town of Hamburg must perform certain remedial actions at the former Town of Hamburg Landfill site; and

**WHEREAS**, the Town of Hamburg has made good faith efforts to purchase the property required for the Landfill Improvement Project; and

**WHEREAS**, the property owner has not, to date, agreed to the sale of the property to the Town of Hamburg; and

**WHEREAS**, the Town of Hamburg is a municipal corporation vested with the power of eminent domain; and

**WHEREAS**, exercising the power of eminent domain has become necessary for the Town to obtain the property needed to complete the project; and

**WHEREAS**, on April 7, 2003, the Town Board determined by resolution that it would be necessary for the Town to commence an eminent domain proceeding under New York State Eminent Domain Procedure Law to acquire a portion of the following premises:

SBL No.: 194.00-3-24.11

Farm Lot 37, Township 9 and Range 8

Owner: Donald J. Spittler, Jr.

With a Mailing Address of: 2064 Lakeview Road

Lake View, New York 14085

And being more particularly described as follows:

COMMENCING at a point on the southeast line of the New York State Thruway, Map 502, Parcel 509, the said point also being the northeast corner of Donald J. Spittler, Jr. (SBL No. 194.00-3-24.11) and also being the northwest corner of lands owned by the Town of Hamburg (SBL No. 194.00-4-17); thence southerly along the east line of Spittler and west line of the Town of Hamburg, a distance of 65 feet to the point or place of beginning; thence westerly and perpendicular to the east line of Spittler a distance of 45 feet; thence southerly at a right angle, a distance of 150 feet; thence westerly at a right angle, a distance of 15 feet; thence southerly at a right angle, a distance of 295 feet; thence easterly at a right angle, a distance of 15 feet; thence southerly at a right angle, a distance of 235 feet; thence easterly at a right angle, a distance of 45 feet to a point on the east line of Spittler, the said point also being on the west line of the Town of Hamburg; thence northerly along said east line of Spittler, a distance of 680 feet to the point or place of beginning, and containing an area of 0.804 acres.

**WHEREAS**, subsequent to the Town's commencement of the condemnation action, the property owner commenced an action in the Appellate Division of the New York State Supreme Court claiming that the Town had failed to follow or comply with certain procedural processes; and

**WHEREAS**, no decision has yet been rendered in that action; and

**WHEREAS**, in November of 2003, the Town Board, after discussion and consideration, passed a resolution that in the Board's determination, the proposed acquisition was de minimis in nature under Article 2 of the New York State Eminent Domain Procedure Law §206 (D); and

**WHEREAS**, in December of 2003, the Town’s Engineering Department, which employs certified and licensed engineers, reviewed all relevant information and materials regarding the proposed acquisition and prepared an Environmental Assessment Form; and

**WHEREAS**, the Town Board has considered the acquisition, reviewed and accepted the Environmental Assessment Form, reviewed the criteria set forth in 6 NYCRR section 617.7 (c), thoroughly analyzed the relevant areas of potential environmental concern, and has duly considered all of the potential environmental impacts and their magnitude in connection with the proposed acquisition; and

**WHEREAS**, the proposed acquisition will have no significant adverse impact on the environment,

**NOW THEREFORE BE IT RESOLVED**, that the Town Board hereby:

- (a) determines that the proposed acquisition is a Type II action pursuant to NYCRR Title 6 section 617.5 (c)(29) in that the New York State Department of Environmental Conservation has directed that the action be undertaken pursuant to its authority under law to enforce the provisions of the New York State Environmental Conservation Law; and
- (b) determines that, in the alternative, if the action is not classified as a Type II action under NYCRR Title 6 Section 617.5(c)(29), the acquisition is an unlisted action pursuant to NYCRR Title 6 Sections 617.2 and 617.4; and
- (c) the Town adopts a negative declaration pursuant to 6 NYCRR section 617.7 with respect to the project; and
- (d) authorizes the Supervisor of the Town of Hamburg to sign a negative declaration determination of non-significance with respect to the acquisition.

Moved: Cavalcoli                      Seconded: Kesner  
Roll Call:     Ayes: Hoak, Cavalcoli, Kesner, Quatroche  
                    Noes: None  
                    Carried

**V.**

**WHEREAS**, in order to provide electric service for the pump station currently being constructed on Big Tree Road as part of the Highland Acres Sanitary Sewer Extension Project, New York State Electric and Gas (NYSEG) needs to install a pole within the pump station site, which requires that an easement be obtained by NYSEG for this purpose,

**THEREFORE BE IT RESOLVED**, that the Hamburg Town Board hereby approves the granting of an easement to NYSEG for the installation of the pole, and that the Supervisor is authorized to sign the easement agreement which NYSEG sent to the Town on December 17, 2003.

**BE IT FURTHER RESOLVED**, that one certified copy of this resolution be provided to the Engineering Department, for transmittal to NYSEG.

Moved: Cavalcoli                      Seconded: Quatroche  
Roll Call:     Ayes: Hoak, Cavalcoli, Kesner, Quatroche  
                    Noes: None  
                    Carried

**VI.**

**WHEREAS**, in order to improve street lighting along North Shore Drive, it has been determined that an additional street light is warranted in the area,

**THEREFORE BE IT RESOLVED**, that the Town Board authorizes Niagara Mohawk to install a 70 watt high pressure fixture on Pole No. 19 located in front of 14 North Shore Drive, in accordance with the existing PSC tariff, and

**BE IT FURTHER RESOLVED**, that the Town Clerk is requested to provide two certified copies of this resolution to the Engineering Department for transmittal to Niagara Mohawk.

Moved: Hoak                      Seconded: Quatroche  
Roll Call:     Ayes: Hoak, Cavalcoli, Kesner, Quatroche  
                    Noes: None  
                    Carried

**VII.**

**BE IT RESOLVED**, that the Town Board approve Supervisor Hoak signing Section 8 of the PO-17 form creating a new 55A-Public Safety Dispatcher (non-competitive) position for the Public Safety Communications Department. In accordance with the provisions of Civil Service Law, Section 22, Erie County Commissioner of Personnel, John W. Greenan has completed Section 7 of the PO-17 form certifying this the appropriate title for the position.

Moved: Kesner                      Seconded: Quatroche  
Roll Call:     Ayes: Hoak, Cavalcoli, Kesner, Quatroche  
                    Noes: None  
                    Carried

**VIII.**

**BE IT RESOLVED**, that the Town Board approve the appointment of A. CHRISTOPHER KLEINE, 5501 Wyndfield Ct., Hamburg, NY to the position of full-time PUBLIC SAFETY DISPATCHER (probational) effective January 5, 2004. Mr. Kleine has met the Civil Service requirements for this position and is currently on the Civil Service list, established September 26, 2002, Exam #068974. Salary is \$17.98 per hour, funds available in A3020.100.

Moved: Kesner                      Seconded: Cavalcoli  
Roll Call:     Ayes: Hoak, Cavalcoli, Kesner, Quatroche  
                    Noes: None  
                    Carried

**IX.**

**WHEREAS,** The Town of Hamburg Community Development Citizens Advisory Committee in conjunction with the Town of Hamburg Department of Community Development have reviewed funding requests for program year 2004 Community Development Block Grant funds at public hearings and at advisory meetings in accordance with the Town of Hamburg Citizen Participation Plan to determine the most efficient and effective use of the 2004 CDBG funding, and

**WHEREAS,** there is currently no federal budget pertaining to these programs and funds for the 2004 federal fiscal year which started October 1, 2003, and

**WHEREAS,** the Town of Hamburg must proceed with its application for funding in this regard without confirmation of funding amounts to assure compliance with program regulations and the Town's Consolidated Plan, and

**WHEREAS,** it is estimated by the Department of Community Development that the 2004 Town of Hamburg CDBG award will be in the amount of \$500,000, and

**WHEREAS,** The Citizens Advisory Committee has evaluated requests and has recommended to the Town Board the following proposed use of CDBG funds for the 2004 Program Year and that said funding should be included in the Town of Hamburg's 2004 Action Plan:

Program Administration and Planning	\$ 80,000
Public Service; Senior Aquatic Fitness (Continuation):	\$ 25,000
Public Service; Battered Spouse/Domestic Violence (Continuation):	\$ 50,000
Public Facilities; Village of Hamburg (Infrastructure):	\$145,000
Public Facilities; Village of Blasdell (Infrastructure):	\$100,000
Hometown Housing Program "Existing Home" Conditional Grant Subsidies:	\$100,000

**NOW THEREFORE BE IT RESOLVED,** that the Hamburg Town Board adopt the above listed use of Community Development Block Grant funds for the 2004 program year, and

**BE IT FURTHER RESOLVED,** that Supervisor Patrick Hoak an official representative of the Town of Hamburg be authorized to sign the Town of Hamburg Action Plan for the 2004 Program Year, and that the Supervisor also be authorized to sign all certifications, required documents contained therein and directing and authorizing him to provide such additional information as may be required by the Department of Housing and Urban Development for the Community Development Block Grant Program and HOME Investment Partnership Program.

Moved: Hoak                      Seconded: Quatroche  
Roll Call:      Ayes: Hoak, Cavalcoli, Kesner, Quatroche  
                    Noes: None  
                    Carried

Councilwoman Kesner comments that the Villages are doing very well under the budget as well as their continued support for the Domestic Violence program and the Aqua Center. She then thanks Mr. Hull for his leadership in putting these programs together and the continued monitoring of these programs. Mr. Hull comments that unfortunately the Federal Budget year starts October 1<sup>st</sup> of every year and currently it is only six of thirteen Federal Budget Departments that have Federal funding. There are seven remaining outstanding and they won't be picked up until January 20<sup>th</sup> and they will be lumped into a Omnibus Appropriations bill. We may not see our actual grant award until March or April of this year. Whereas, normally we would be getting the money for the year at that time. They will have to do another resolution when they get the actual number and a second application when they do finally pass the budget. He has sent numerous letters to all the Appropriations Committee Members trying to get more money for the Town. Councilwoman Kesner comments that a lot of these projects will not begin until fall.

**X.**  
**RESOLVED,** that the Town Board set a Public Hearing for the Klubeck Rezoning on Willett

Moved: Cavalcoli    Seconded: Kesner  
Roll Call:        Ayes: Hoak, Cavalcoli, Kesner, Quatroche  
                    Noes: None  
                    Carried

**RESOLVED**, that the Town Board approve the membership of the following into the Scranton Volunteer Fire Company, Inc.:

Michael Patterson  
5335 Adams St.  
Hamburg, N.Y. 14075

Moved: Kesner                               Seconded: Quatroche  
Roll Call:     Ayes: Hoak, Cavalcoli, Kesner, Quatroche  
                Noes: None  
                Carried

**RESOLVED**, that the Town Board approve the Transfer of Appropriations for the Building and grounds Department within the 2003 Budget as follows:

From:	Motor Vehicles	A1640.202	\$ 4,000.00
	Electricity	A3310.437	\$ 734.00
	Personal Services	A7266.100	\$ 4,000.00
	Motor Vehicles	A1640.202	\$18,982.00
	Gasoline	A1640.403	\$ 2,137.00
	Repair & Maint.	A1640.460	\$ 555.00
To:	Equip. Rental	A7230.406	\$ 4,000.00
	Contracted Services	A7140.440	\$ 734.00
	Personnel Services	A7140.100	\$ 4,000.00
	Personnel Services	A7140.100	\$18,982.00
	Repair & Maint. Supp.	A1620.413	\$ 1,217.00
	Repair & Maint.	A1620.460	\$ 920.00
	Repair & Maint.	A1620.460	\$ 555.00

Moved: Quatroche                  Seconded: Cavalcoli  
Roll Call:        Ayes: Hoak, Cavalcoli, Kesner, Quatroche  
Noes: None  
Carried

**RESOLVED**, that the Town Board approve the hiring and termination of personnel for the Building and Grounds Department as follows:

1.	James Morgan	P/T Laborer	12/19/2003	Terminate
2.	Frederick Best	Seasonal Laborer	12/22/2003	\$8.80
3.	Frederick Best	Seasonal Laborer	01/16/2004	Terminate

Moved: Quatroche                  Seconded: Kesner  
Roll Call:      Ayes: Hoak, Cavalcoli, Kesner, Quatroche  
Noes: None  
Carried

**RESOLVED**, that the Town Board approve the hiring of personnel for the Recreation Department

as follows:

1. Malysza, Timothy                      B7310(320)                      12/15/2003                      \$7.50 P/T Temp

Moved: Quatroche                      Seconded: Cavalcoli  
Roll Call:      Ayes: Hoak, Cavalcoli, Kesner, Quatroche  
                    Noes: None  
                    Carried

**XV.**

**WHEREAS**, the New York State Public Service Commission instituted formal proceedings to consider the past billings and other issues, claims or disputes in connection with the rendition of street lighting services by New York State Electric & Gas Corporation (“NYSEG”); and

**WHEREAS**, the Town of Hamburg intervened in such proceedings; and

**WHEREAS**, the Town of Hamburg engaged Computel Consultants (“Computel”) to represent the Town of Hamburg in such proceedings and negotiate on its behalf in regard to all issues, claims or disputes pertaining to street lighting services rendered by NYSEG to the Town of Hamburg, including, but not limited to, its past NYSEG streetlighting bills; and

**WHEREAS**, negotiations between NYSEG and Computel have resulted in a settlement and release agreement between NYSEG and the Town of Hamburg; and

**WHEREAS**, Computel has recommended the acceptance of such settlement and release agreement.

**NOW THEREFORE BE IT RESOLVED**, that Supervisor Patrick Hoak is authorized and directed to execute a settlement and release agreement with and to deliver the same to NYSEG. The settlement and release agreement is an accord and satisfaction for all issues, claims or disputes pertaining to street lighting services rendered by NYSEG to the Town of Hamburg for the period set forth in the settlement and release agreement.

Moved: Quatroche                      Seconded: Kesner  
Roll Call:      Ayes: Hoak, Cavalcoli, Kesner, Quatroche  
                    Noes: None  
                    Carried

**XVI.**

**WHEREAS**, bids for 3 Unused and New 4x4 Super Cab 4 Door Pick-Ups were received and opened on 12/22/2003, and

**WHEREAS**, the bids are as follows:

Emerling Ford	\$57,885.12
Emerling Chevrolet	\$56,972.04
West Herr Ford	\$56,094.00
DeLacy Ford	\$54,996.00

**WHEREAS**, DeLacy Ford was low bidder.

**THEREFORE BE IT RESOLVED**, that the purchase of 3 Pick-Ups as bid is awarded to DeLacy Ford.

Moved: Quatroche                      Seconded: Kesner  
Roll Call:      Ayes: Hoak, Cavalcoli, Kesner, Quatroche  
                    Noes: None  
                    Carried

**XVII.**

**RESOLVED**, that the Town Board approve the Audit of Cash Disbursements as follows:

		VOUCHER #'S
<u>OPERATING FUND:</u>		
BATCH #159	\$ 122,054.30	909184 - 90923
BATCH #160	\$1,000,000.00	909326 - 909327
BATCH #161	\$ 774,440.29	909328 - 909445
BATCH #162	\$ 150.00	909446
BATCH #163	\$ 23,858.91	909447 - 909483
PRTRN # P/R 26	\$ 522,488.26	909325
<u>TOTAL OPERATING FUND DISBURSEMENTS:</u>		\$2,442,991.76

<u>TRUST &amp; AGENCY:</u>		
BATCH # 68	\$ 8,625.06	560523 - 560538
BATCH # 69	\$ 511,014.18	560539 - 560543
BATCH #70	\$ 202,014.69	560544
BATCH #71	\$ 9,830.65	560545 - 560546
<u>TOTAL TRUST &amp; AGENCY DISBURSEMENTS:</u>		\$ 731,484.58

<u>CAPITAL FUND DISBURSEMENTS:</u>		
BATCH # 89	\$ 3,148.35	710517 - 710522
BATCH # 90	\$1,100,000.00	710523 - 710524
BATCH # 91	\$ 412,366.00	710525 - 710527
<u>TOTAL CAPITAL FUND DISBURSEMENTS:</u>		\$1,515,514.35

<u>PAYROLL:</u>		
PR #26	\$ 487,600.94	
<u>TOTAL PAYROLL DISBURSEMENTS:</u>		\$ 487,600.94

<u>PETTY CASH:</u>		
	\$ 91.16	
<u>TOTAL PETTY CASH DISBURSEMENTS:</u>		\$ 91.16
<u>TOTAL CASH DISBURSEMENTS SUBMITTED FOR AUDIT:</u>		\$5,177,682.79

Moved: Hoak

Seconded: Cavalcoli

Roll Call: Ayes: Hoak, Cavalcoli, Kesner, Quatroche

Noes: None

Carried

**XVIII.**  
**RESOLVED,** that the Town Board adjourn to Executive Session at 10:25 a.m. on Personnel Matter and Legal Matter.

Moved: Hoak

Seconded: Quatroche

Roll Call: Ayes: Hoak, Cavalcoli, Kesner, Quatroche

Noes: None

Carried

Catherine Rybczynski, Town Clerk



